IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 10TH APRIL 2007 / 20TH CHAITHRA 1929

WP(C).No. 34427 of 2006(W)

PETITIONER:

S. SAFEELA BEEVI,
L.P.S.A., MVLPS, MANTHARA, EDAVA P.O.,
TRIVANDRUM DISTRICT.

BY ADV. SRI.BENOY THOMAS
SRI.PAULSON THOMAS

RESPONDENTS:
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1. **STATE OF KERALA,**
   REPRESENTED BY THE SECRETARY, GENERAL EDUCATION
   DEPARTMENT, THIRUVANANTHAPURAM.

2. **DIRECTOR OF PUBLIC INSTRUCTIONS,**
   THIRUVANANTHAPURAM.

3. **DEPUTY DIRECTOR OF EDUCATION,**
   THIRUVANANTHAPURAM.

4. **ASSISTANT EDUCATIONAL OFFICER, VARKALA.**

5. **THE MANAGER,**
   MVLPS, MANTHARA, EDAVA P.O.,
   THIRUVANANTHAPURAM DISTRICT.

6. **THE HEADMISTRESS,**
   MVLPS, MANTHARA, EDAVA P.O.,
   THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.P.N.MOHANAN - R5 & R6
BY GOVERNMENT PLEADER SRI.T.T.MUHAMMED

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.34427/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE MEMO DT.9.1.06 ISSUED BY THE REGISTRAR, M.G.UNIVERSITY TO THE PETITIONER.

EXT.P2:- COPY OF THE LETTER SUBMITTED BY THE PETITIONER TO THE HEADMISTRESS DT.16.1.06.

EXT.P3:- COPY OF THE SELECTION MEMO FOR M.ED. DEGREE COURSE DT.17.1.06.

EXT.P4:- COPY OF THE LETTER FORWARDING LEAVE APPLICATION OF THE PETITIONER DT.10.3.06 SENT BY THE 4TH RESPONDENT TO THE 3RD RESPONDENT.

EXT.P5:- COPY OF THE ORDER NO.D.388/06 DT.26.9.06 ISSUED BY THE 4TH RESPONDENT.

EXT.P6:- COPY OF THE RELEVANT PORTION OF THE LETTER DT.16.11.06 SENT BY THE 4TH RESPONDENT TO 3RD RESPONDENT.

EXT.P7:- COPY OF THE LETTER SENT BY THE PETITIONER TO THE 6TH RESPONDENT DT.13.12.06.

EXT.P8:- COPY OF THE LETTER NO.E/603/06 DT.9.12.06 SENT BY THE 5TH RESPONDENT TO THE 6TH RESPONDENT.

EXT.P9:- COPY OF THE LETTER SENT BY THE 6TH RESPONDENT TO THE PETITIONER DT.15.12.06.

EXT.P10:- COPY OF THE POSTAL CERTIFICATE IN RESPECT OF EXT.P2 LETTER DT.16.1.06.

EXT.11:- COPY OF THE LETTER ISSUED BY THE AEO VARKALA TO THE MANAGER DT.16.12.06.

EXT.P12:- COPY OF THE LETTER SENT BY THE PETITIONER TO THE MANAGER WITH POSTAL ENDORSEMENT DT.30.10.06.

EXT.P13:- COPY OF THE PROCEEDINGS OF THE A.E.O DECLARING THE PROBATION OF THE PETITIONER DT.7.11.02.

EXT.14:- COPY OF THE SHOW CAUSE NOTICE ISSUED BY THE A.E.O TO THE MANAGER DT.24.1.05.

RESPONDENTS EXHIBITS

EXT.R5(a):- COPY OF THE APPOINTEMENT ORDER DT.9.2.99 OF THIS RESPONDENT.

EXT.R5(b):- COPY OF THE REPORT OF THE PANCHAYAT.

EXT.R5(c):- COPY OF THE COMPLAINT FILED BY TEACHERS.
EXT.R5(d):- COPY OF THE COMPLAINT FILED BY TEACHERS.

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EXT.R5(e):- COPY OF THE ORDER DT.1.7.04. BEFORE THE DPI.

EXT.R5(f):- COPY OF THE ORDER D.T.31.12.04.

EXT.R5(g):- COPY OF THE REPORT DT.28.9.05.

EXT.R5(h):- COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER DT.16.1.06.

EXT.R5(i):- COPY OF THE LETTER DT.15.2.06 FROM THE MANAGER TO THE DPI.

EXT.R5(j):- COPY OF THE LETTER DT.15.3.06 FROM THE MANAGER TO THE DPI.

EXT.R5(k):- COPY OF THE LETTER DT.24.6.06 FROM THE MANAGER TO THE DPI.

EXT.R5(l):- COPY OF THE LETTER DT.26.9.06 OF THE AEO.

EXT.R5(m):- COPY OF THE REPLY DT.30.9.06 FROM THE MANAGER.

EXT.R5(n):- COPY OF THE LETTER DT.28.11.06.

EXT.R5(o):- COPY OF THE NOTICE DT.13.12.06 ISSUED BY THE MANAGER.

EXT.R5(p):- COPY OF THE LETTER DT.22.12.06 FROM THE MANAGER TO THE AEO.

EXT.R5(q):- COPY OF THE COMMUNICATION OF THE HEADMASTER OF THE MANAGER DT.22.12.06.

EXT.R5(r):- COPY OF THE LETTER DT.15.2.06 ISSUED BY THE RESPONDENT.

EXT.R5(s):- COPY OF THE LETTER DT.25.5.06 ISSUED BY THE RESPONDENT.

EXT.R5(t):- COPY OF THE LETTER DT.3.1.07 TO THE ASST.EDUCATIONAL OFFICER.

/TRUE COPY/

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K. M. JOSEPH, J.

W.P.C. NO. 34427 OF 2006 W

Dated this the 10th April, 2007

JUDGMENT

Case of petitioner, in brief, is as follows:

Petitioner availed leave for doing M.Ed. But, the Manager did not recommend the leave applied for as a part of his vindictive measures. According to petitioner, as per Rule 58(1) of Chapter XIV A KER, the fourth respondent AEO is the sanctioning authority and he can grant leave under Rule 91 of Part I of KSR even ignoring the non-recommendation or forwarding of the leave application, as per Note (2) of Rule 58 of Chapter XIV A KER. Petitioner reported for rejoining duty on 15.12.2006. But, the Manager refused permission to rejoin. In these circumstances, petitioner has approached this Court.

2. The Manager has filed a detailed Counter Affidavit stating, inter alia, that the petitioner proceeded on leave without permission and at the fag end of the academic year. Petitioner has also filed a Reply Affidavit.

3. After having heard the counsel appearing for the parties, the Writ Petition is disposed of directing the third respondent to forward the application for leave pursuant to Ext.P6 recommendation of the AEO, to the first respondent within a period of two weeks from the date of receipt of a copy of this Judgment. Thereafter, the first respondent will consider and take a decision on the same in accordance with law, within a further period of six weeks from the date of receipt of the same from the Deputy Director of Education. I am not expressing any view on the alleged disciplinary action initiated against the petitioner by the Manager. I leave open the rights of the petitioner in this regard. It is open to the petitioner to approach the Educational Authority complaining of any violation of Ext.P11 order.

K. M. JOSEPH, JUDGE

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